

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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WAUSAU UNDERWRITERS INSURANCE :
COMPANY and AXIS SPECIALTY :
INSURANCE COMPANY, :

Plaintiffs, :

- against - :

QBE INSURANCE CORPORATION and :
SCOTTSDALE INSURANCE COMPANY :

Defendants. :

-----x
VICTOR MARRERO, United States District Judge.

06 Civ. 3212 (VM)

CONDITIONAL
ORDER OF DISCONTINUANCE

<p>USDS SDNY DOCUMENT ELECTRONICALLY FILED DOC #: _____ DATE FILED: <u>4-18-08</u></p>

Counsel for plaintiffs, having notified the Court, by letter dated April 17, 2008, a copy of which is attached, that the parties have reached an agreement in principle likely to settle this action without further litigation, it is hereby

ORDERED, that this action be conditionally discontinued without prejudice and without costs; provided, however, that within thirty (30) days of the date of this Order, the parties may submit to the Court their own Stipulation of Dismissal for the Court to So Order. Otherwise, within such time counsel for plaintiff may apply by letter for restoration of the action to the active calendar of this Court in the event by the deadline indicated the settlement is not consummated. Upon such notification, the defendant shall continue to be subject to the Court's jurisdiction, the Court shall promptly reinstate the action to its active docket and the parties shall be directed to appear before the Court, without the necessity

of additional process, on a date within thirty days of the plaintiff's application for reinstatement, to schedule remaining pre-trial proceedings and/or dispositive motions, as appropriate. This Order shall be deemed a final discontinuance of the action with prejudice in the event plaintiff has not requested restoration of the case to the active calendar within such period of time.

Any further conferences with the Court scheduled in this action are canceled but shall be rescheduled as set forth above in the event plaintiff notifies the Court that the parties' settlement was not effectuated and that such conference is necessary to resume pretrial proceedings herein.

The Clerk of Court is directed to close this case.

SO ORDERED.

Dated: NEW YORK, NEW YORK
18 April 2008

A handwritten signature in black ink, appearing to read 'Victor Marrero', is written over a horizontal line.

VICTOR MARRERO
U.S.D.J.

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ATTORNEYS AT LAW

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April 17, 2008

VIA FACSIMILE

Hon. Victor Marrero
U.S. District Court, S.D.N.Y.
United States Courthouse, Suite 414
40 Centre Street
New York, New York 10007

**Re: Wausau Underwriters Insurance Company, et al. v. QBE
Insurance Corporation, et al.
Civil Action No. 06 CV 3212 (VM)**

Dear Judge Marrero:

Our firm represents plaintiffs WAUSAU UNDERWRITERS INSURANCE COMPANY and AXIS SPECIALTY INSURANCE COMPANY in the above-mentioned matter. I write to provide an update of the status of settlement in this matter. The parties have agreed upon the form of the written settlement agreement, and it is being circulated for signature by the parties. As soon as it is fully executed, we will file the appropriate papers with the Court.

Respectfully submitted,



Marshall T. Potashner (MTP-3552)

MTP:mp

Cc: Robert Hille, Esq. (via fax)
Andrew Mihalck (via fax)